

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	FCC 03-13
)	

COMMENTS OF GVNW CONSULTING, INC.

GVNW Consulting, Inc. (GVNW) respectfully submits these comments in response to the Notice of Proposed Rulemaking (NPRM) released February 25, 2003. In the NPRM, the Commission seeks comment on the *Recommended Decision* of the Federal-State Joint Board On Universal Service (Joint Board) regarding the definition of services supported by universal service.¹

GVNW is a management-consulting firm, which provides a wide variety of consulting services to independent telephone companies. These independent local exchange carriers provide universal service to rural subscribers, and are accordingly an interested party in any redefinition of universal service. We appreciate the opportunity the Commission has provided via the NPRM to offer comments and subsequent replies on these important issues impacting subscribers in rural America.

IN REAFFIRMING THE EXISTING LIST OF SUPPORTED SERVICES, THE
RECOMMENDED DECISION STOPPED ONE STEP SHORT OF COMPLETING ITS
TASK

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 02J-1, (rel. July 10,2002) (*Recommended Decision*)

In 1997, the Commission designated various “core” services deemed eligible for federal universal service support: single-party service, voice grade access to the public switched network; Dual Tone Multifrequency signaling or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation services for qualifying low-income consumers. The *Recommended Decision* correctly supports the continuation of these existing services under the definition of what is eligible for support.

In order for any telecommunications service to be added to the list of supported services, the service must meet the four criteria specified at Section 254(c) of the 1996 Telecommunications Act. The four criteria that are found at Section 254 (c) (1) include:

- (A) are essential to education, public health, or public safety;
- (B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential subscribers;
- (C) are being deployed in public telecommunications networks by telecommunications carriers; and
- (D) are consistent with the public interest, convenience, and necessity.

It is our opinion that the provision of equal access satisfies the four criteria contained in the Act and should be added to the list of supported services.

A key element to consider here is that Section 254 (c) (1) states in part that “Universal service is an **evolving** level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services.” (emphasis added)

THERE IS A FOUNDATION AND BASIS FOR ADDING EQUAL ACCESS TO THE LIST OF SUPPORTED SERVICES

The members of the Joint Board opposed to the inclusion of equal access offer several arguments in the Recommended Decision. We will refute each of these positions as follows.

There is not a conflict with section 332

Adding equal access to the list of supported services is not contrary to section 332(c)(8) of the Act. This is the section that prohibits any requirement that commercial mobile service (CMRS) providers offer equal access.

Seemingly lost in this “definition of universal service” debate is the plain fact that requiring a service or functionality as a condition of universal service support in no way “requires” a CMRS provider to offer any particular service, in this case, equal access. Why is this the case? It is quite simple. Becoming a CMRS provider **does not include** an automatic eligible telecommunications carrier (ETC) designation. While some parties seemingly create this implicit linkage, that is not how the law and rules are currently written. The Joint Board members that supported adding equal access provide further rationale:

“Section 332(c)(8) prevents the Commission from requiring CMRS carriers to provide equal access simply because the CMRS carriers provide telecommunications services. Including equal access in the definition of supported service does not in any manner require any CMRS carrier to provide equal access as part of its obligations as a common carrier.”²

FCC rules clearly show that equal access is included in current federal universal service support funds

² Recommended Decision, 17 FCC Rcd 14124-14125, paragraph 76.

In our ex parte of June 19, 2002, we stated that equal access costs are included in the calculation of universal service fund high cost support. In her separate statement that accompanied the Recommended Decision, Commissioner Abernathy references in footnote 191 the disagreement between the GVNW ex parte of June 19, 2002 and what we believed to be inaccurate data placed in the record by the CUSC filing of June 12, 2002. We have attached the GVNW ex parte of June 19, 2002 as Exhibit A. No rule changes have occurred in the last nine months which would change the conclusion presented in this ex parte:

“Under the current Commission Rules found in Parts 32, 36, 54, and 69, rural ILECs equal access costs are included in the calculation of high-cost universal service support.”

The Montana Universal Service Task Force (MUST) filed another equal access argument in its comments. The MUST group raises the issue of whether wireless carriers receive an unfair advantage in the service areas of rural telephone companies as a result of equal access not being included in the universal service definition.

“Of equal importance is the fact that there is a cost to providing equal access. Wireline carriers are required to provide equal access and the associated costs are included in the determination of their universal service support levels. Since wireless carriers are not required to make the expenditures necessary to provide equal access but nonetheless receive support based on the incumbent wireline carrier’s costs (including the costs of providing equal access), this portion of the support appears to be a windfall to the wireless carriers and is therefore an unfair competitive advantage.”

Inclusion of equal access would be consistent with other Commission rulings

The FCC itself offers support for the concept of equal access in statements in the recent Access Charge Reform Order for rate-of-return carriers. In this order, the Commission states in paragraph 182 that it seeks “to ensure that rural Americans receive

the benefits of competition and choices in the interexchange services market.” It will be difficult to achieve this goal without equal access affording rural customers a real choice among toll providers.

THERE IS SUPPORT FROM PARTIES FOR ADDING EQUAL ACCESS TO THE DEFINITION OF UNIVERSAL SERVICE

In their initial comments, OPASTCO (pages 3-5) explained that equal access to interexchange services meets all four of the section 254 (c)(1) criteria. Other commenters agreed that equal access should be added to the list of supported services. In its comments, the National Telephone Cooperative Association (NTCA at pages 2-4) explained how equal access meets all of the section 254(c)(1) criteria.

CONCLUSION

As shown at page 2, Section 254 (c) (1) states in part “Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services.” The evidence in the record appears to now support the inclusion of equal access in the definition.

We applaud the Commission for seeking comments as it reexamines the definition of services that will be supported by federal universal service mechanisms.

Respectfully submitted,
electronically filed –
Jeffrey H. Smith
Consulting Manager
GVNW Consulting, Inc.
8050 SW Warm Springs Street, Suite 200
Tualatin, Oregon 97062
jsmith@gvnw.com

GVNW Consulting, Inc.
Comments in CC Docket No. 96-45 (FCC 03-13)
April 14, 2003

Exhibit A – GVNW Ex Parte dated June 19, 2002

June 19, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth St., SW, Room TW-A325
Washington, DC 20554

RE: GVNW Consulting, Inc. (GVNW) response to the Competitive Universal Service Coalition's (CUSC) Ex parte of June 12, 2002 in CC Docket No. 96-45 related to the inclusion of Equal Access costs in the Universal Service Fund calculations.

Dear Ms. Dortch:

On June 12, 2002 CUSC filed an ex parte stating in part that "rural ILECs currently recover NO equal access costs through the high-cost universal service funds they receive."

This filing by GVNW will show that under the current Commission Rules, Parts 32, 36, 54, and 69, rural ILECs equal access costs are included in the calculation of high-cost universal service support. Following are the items CUSC provided as a basis for their analysis, and GVNW's response:

CUSC Analysis	GVNW's Response
1. Rural ILECs receive four categories of high-cost support funding: one relating to switching costs (Local Switching Support, § 54.301 of the FCC's rules), and three relating to loop or common line costs (Long Term Support - § 54.303, High-Cost Loop Support - §§ 36.601 et seq, and MAG/Interstate Common Line Support - §§ 54.901 et seq). Equal access costs relate exclusively to specified upgrades to switching capabilities (see the definition of "equal access costs" in the glossary of Part 36 App.). Therefore, the only category of universal service funding that could possibly be relevant to equal access is Local Switching Support.	The glossary to the Part 36 rules clearly do not limit equal access costs exclusively to specified upgrades to switching capabilities. Presubscription costs are also specifically included in the glossary's description as follows: Equal Access - Include only initial incremental presubscription costs and initial incremental expenditures for hardware and software related directly to the provision of equal access which would not be required to upgrade the switching capabilities of the office involved absent the provision of equal access.

	<p>Part 36.421 also provides for the presubscription costs as well as the other expenses associated with the initial incremental expenditures to provide equal access. These expenses associated with the initial incremental expenditures would be recorded in a number of different accounts following the Part 32 Accounting rules. For example Accounts 6210, 6560, 6620, and 6720.</p> <p>Under the Commissions Rules, the inclusion of equal access costs in the above referenced accounts would impact the computations of support for all four of the high-cost funding categories referenced by CUSC. Local Switching Support is not the only relevant support mechanism impacted by costs in the above referenced accounts.</p>
<p>The rules governing Local Switching Support (§ 54.301(b) and (c)) include a detailed list of the investment and expense accounts used in calculating support amounts. But none of those accounts should include any equal access costs, because, prior to calculating support amounts, "equal access investment is first segregated from all other amounts in the primary accounts." § 36.191(b); see also § 36.421(b). This means that the universal service fund apparently provides NO support based on the embedded costs of implementing equal access.</p>	<p>It appears the CUSC believes that the equal access costs are somehow reclassified out of their primary account after they are segregated as per 36.191(b) and 36.421(b), however they provide no support as to where they are reclassified, or under what authority they are reclassified. While the equal access costs are segregated within the primary accounts from the other costs in those accounts for separations purposes, they are not removed from the accounts. This is no different from any other separations treatment where the account has multiple categories and each get their own specified allocation. Each category of cost getting its own separations treatment does not equate to the removal of the cost from the account. None of the support calculation rules specifically remove the equal access costs from their related account before the computation.</p>
<p>But the point is that even those rural ILECs that may still have equal access costs in their rate bases do not recover any such costs through high-cost universal service support mechanisms.</p>	<p>This statement is untrue, and counter to the rules used to calculate high-cost universal service support. It should also be noted that if a company incurs ongoing costs for equal access that don't meet the specific criteria in the Part 36 rules for special recovery under 36.191(b) and 36.421(b), the costs are recovered through the normal recovery of the related account to which the costs are recorded.</p>

Overview of how equal access costs are reflected in high-cost support

In the previous section, we rebutted several of the errors in the June 12 CUSC ex parte. In this next section, we provide a description of how equal access costs are included in the computation of high-cost support.

Accounts Impacted by Equal Access

1. Account 2210 Central Office-Switching
2. Account 6210 Central Office Switching Expense
3. Account 6560 Depreciation and Amortization Expense
4. Account 6620 Services
5. Account 6720 General and Administrative

USF Components Impacted by Equal Access

1. High Cost Loop Support (HCL) – Part 36 Subpart F
2. Local Switching Support (LSS) – Part 54.301
3. Long Term Support (LTS) – Part 54.303
4. Interstate Common Line Support (ICLS) – Part 54 Subpart K

Explanation of the Impact

1. High Cost Loop Support – In the algorithm NECA uses to calculate the USF support, the following accounts or portions of the following accounts are included in the support computation:
 - a. The portion of Account 6210 not related to rents and benefits is included in line 14 of the algorithm.
 - b. Account 6560 is included in line 18 of the algorithm.
 - c. The portion of Account 6720 not related to rents and benefits is included in line 19 of the algorithm.
 - d. The Benefits portion of accounts 6210, 6620, and 6720 are included in line 21 of the algorithm.
2. Local Switching Support – All of the accounts listed above are included in the Local switching support computation. (See part 54.301 and the USAC algorithm on the USAC web site at <http://www.universalservice.org/hc/forms/>)
3. Long Term Support – Long Term Support is calculated for companies that are in the NECA common line pool who received support in 1997. The support that was received in 1997 was based on the companies' allocation of 1997 costs to the interstate common line element following the Part 69 rules. While there was no switching investment (Account 2210), Switching expense (Account 6210) or switching depreciation (included in Account 6560) assigned to the common line element, there were some Services expense and Corporate Expense assigned to common line. The 1997 level of support was frozen and indexed; consequently there is no direct correlation to a company's current equal access cost.
4. Interstate Common Line Support – The interstate common line support is calculated from the interstate costs assigned to the Common Line Element. As mentioned above, a portion of Accounts 6620 and 6720 are assigned to the common line element. In addition, starting in the 2002, there is a line port shift, which will transfer a portion of the revenue requirement related to

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April 14, 2003

switching investment from the switching element to the Common Line element. For most rural high cost companies the majority if not all of this shifted revenue requirement will be picked up in the Interstate Common Line Support mechanism. (See Part 54 subpart K.)

In summary, under the current Commission Rules, Parts 32, 36, 54, and 69, rural ILECs equal access costs are included in the calculation of high-cost universal service support.

If there are any questions concerning the details of this ex parte, please contact me on 719.594.5809, or Ken Burchett or Jeff Smith on 503.612.4400.

Sincerely,

- filed electronically via the FCC's ECFS -

Robert C. Schoonmaker
Vice President
Copy to FCC and State members Universal Service Joint Board service list